

STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF BUTTE

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OROVILLE FACILITIES RELICENSING

FERC PROJECT NO. 2100

PUBLIC MEETING RE: DRAFT ENVIRONMENTAL IMPACT REPORT

THURSDAY, JUNE 21, 2007

REPORTED BY: MARY ANN WYLLIE, CSR #6304



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A P P E A R A N C E S

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RICK RAMIREZ, Manager Oroville Facilities
Relicensing Program

BARBARA MCDONNELL, Chief Division of
Environmental Services

WARD TABOR, Assistant Chief Counsel

SPEAKERS:

GORDON ANDOE

SHARON ATTEBERRY

PAT CLARK

CHARLES MILLER

DAVID PITTMAN

STEVE JERNIGAN

PAUL MCINTOSH

CHARLES HAMILL

WENDELL VANTINE

JANICE WILSON

DAVID STEFFENSON

LYLE WRIGHT

WILL COTTER

TOM BERLINER

1 RON DAVIS
2 SPEAKERS:
3 STEVEN KEELER
4 LANNIE DRAGON
5 KATHY HODGES
6 PATSY SEEK
7 BRANDY DOERING
8 LANA STARK
9 BOB GAGE
10 MARY KAISER

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1 BE IT REMEMBERED that on Thursday, June 21,
2 2007, at the hour of 4:02 p.m. of said day, at Kelley
3 Ridge Country Club, 5131 Royal Oaks Drive, Oroville,
4 California, before me, MARY ANN WYLLIE, a Certified
5 Shorthand Reporter, the following proceedings were had:

6 --oOo--

7 MR. RAMIREZ: Folks, if you could start taking
8 your chair. It's 4:00 o'clock and we would like to
9 start. If you can take your chairs and we can get the
10 show on the road and start receiving the public comments,
11 we would appreciate it.

12 Those of you that would like to speak be sure
13 and fill out a speaker's card so we can have your name
14 and you can appear at the podium and provide comments. I
15 just saw 10 or 15 people walk through the door and let's
16 give them a second and then we will start.

17 (Pause in proceedings.)

18 MR. RAMIREZ: Okay. If folks can take their
19 seats we can start.

20 First of all, let me thank you all for showing
21 up. This is the public meeting for the Draft
22 Environmental Impact Report put out by the Department of
23 Water Resources for Relicensing of the Oroville
24 Facilities.

25 What we plan to do this evening -- this

1 afternoon is to receive comments from the public and
2 agencies on our Draft Environmental Impact Report. That
3 report was issued by the Department several weeks ago and
4 mailed to interested parties and made available to
5 interested parties. There's copies of it at the Butte
6 County Library. There's a copy at the Oroville Field
7 Division and we can make copies available to anybody who
8 does not yet have a copy of the document.

9 So that is what we are here to talk about. I do
10 want to thank you for taking time from your busy
11 schedules to help provide us comments. It's a draft
12 document. We will receive your comments. We will
13 address them and that should hopefully make our document
14 a better planning tool. So once we receive comments we
15 will, in fact, issue a final environmental document and
16 then Barbara McDonnell here will explain how that is used
17 in the remainder of the process.

18 So I see we do have, in fact, a lot of
19 interested participants. We do have speaker cards for
20 those who have decided that they would like to provide
21 comments. If any of you do decide you would like to
22 provide comments, please fill out a speaker card and then
23 wait for your name to be called.

24 We do have a court reporter you will notice at
25 that table there who is transcribing all the comments.

1 That's part of the legal requirement for this type of
2 meeting. That transcript will be made available later
3 for folks that might be interested in any of the
4 discussions that takes place here today.

5 As a reminder, besides this public meeting, the
6 Department is soliciting written comments from folks that
7 are interested in the Draft Environmental Impact Report
8 and the end of the comment period for written comments
9 will be August 20th and that is an extended date.
10 Originally we were going to have July 20th as the cut-off
11 period but there was a reasonable request for an
12 extension of the period. So the new deadline is now
13 August 20th and you will find evidence of that amended
14 notice out on the front desk along with other materials,
15 including a guide to the -- a guide to the Draft
16 Environmental Impact Report that you might find useful.
17 Please feel free to make use of those materials, and
18 hopefully the presentation that Barbara provides will
19 also contribute to your knowledge and understanding and
20 allow you to make comments that you feel are useful.

21 But before I go too much further, let me go
22 ahead and formally introduce ourselves. As I said, I'm
23 Rick Ramirez. I'm the Program Manager for the
24 Relicensing Program. I've been involved in this for a
25 good six or seven years now. I see a lot of familiar

1 faces that have participated with us in this process
2 right here in this room over the last six or seven years
3 and so we do have a history here and we are getting near
4 the end of our process and we think we have a good
5 document.

6 Seated next to me is Barbara McDonnell. She's
7 the Chief of our Division of Environmental Services, as
8 this is an environmental document. Barbara is able to
9 speak to the structure of the Environmental Impact Report
10 and she will go through that in a few minutes here.

11 And on her right we have Ward Tabor, who is our
12 Assistant Chief Counsel. He's promised to give me a kick
13 in the chins if I say anything that doesn't quite ring
14 true, so that's his job here today.

15 Okay. So with that, let me go ahead and turn it
16 over to Barbara so she can walk us through the DEIR and
17 then eventually very quickly we would like to get to the
18 public comment portion and start collecting public
19 comments.

20 MS. MCDONNELL: Okay. Thank you.

21 I'm going to try to go through this fairly
22 quickly because we actually are seeing more people than
23 we anticipated. We do want to spend time listening to
24 you and not listening to ourselves today, but I did want
25 to put the document into context. It has been out for

1 review for a month, and so I know many of you have
2 probably not been able to get all the way through the
3 document but I wanted to help provide a little bit of a
4 guide to the document to help out in the review process.

5 First of all, our official scoping process was
6 back in 2001 and we did have meetings -- scoping meetings
7 in October of 2001. Those transcripts are available on
8 our Web site if you want to go back and look at the
9 history of the EIR process.

10 The license application was submitted in 2005 --
11 filed January of 2005 and at that time DWR included a
12 proposed action in that document at a preliminary draft
13 environmental assessment. That project description was
14 actually more of a placeholder at that time because we
15 were in settlement negotiations and many of you
16 participated in those over the last several years. So we
17 did meet our license application deadline but we did
18 continue on with settlement discussions. Rick allowed us
19 to do that and it culminated in March of 2006 with the
20 settlement agreement which is then filed with FERC and
21 became the new project description for FERC's use in
22 preparation of the Environmental Impact Statement under
23 Federal National Environmental Policy Act. So FERC did
24 release their Draft Environmental Impact Statement last
25 September and what they ended up doing is including

1 Appendix A of the settlement agreement which were FERC's
2 jurisdictional activities within the settlement process
3 as their project description and they also had a FERC
4 staff alternative which had some changes to Appendix A
5 items.

6 They also released a Final EIS then after the
7 formal comment period and that came actually out a
8 working day before our draft hit the streets in May. So
9 May 18th they did publish the Final EIS. And, again,
10 it -- the proposed action was the settlement agreement
11 Appendix A. And also they did include a FERC staff
12 alternative which was similar to what was in the draft
13 but slightly different and actually a little closer to
14 our Appendix A settlement agreement.

15 And then we did release this Draft EIR on May
16 21st. And I just want to mention a lot of times the
17 State will do a joint EIR, EIS with their federal
18 partners but with FERC it is a little difficult to do
19 that because of the issues they address are a narrower
20 scope often than what we needed to address, so we decided
21 to have a separate and slightly delayed CEQA process so
22 that we can capture everything that was in the Federal
23 EIS process in our process as well. So I will describe a
24 little bit more about that.

25 So then the Draft EIR includes the no-project

1 which is a required element in the EIR. And basically
2 the "no-project" means that we would get a new license
3 and under those conditions we would continue operating
4 under our existing license but we also acknowledge that
5 we have agreed to some interim projects and those would
6 continue and then we also negotiated with official
7 wildlife service on conservation measures to reduce our
8 impacts on listed terrestrial species and those were a
9 commitment that we made that we would do immediately. We
10 have carried many of those out. And regardless of the
11 license, we have agreed that we would carry out those
12 conservation measures. So our no-project included the
13 existing plus no-project plus conservation actions for
14 terrestrial listed species.

15 Our proposed project is our settlement
16 agreement, so it includes everything that's in the no
17 project. It adds our entire settlement agreement with
18 all the appendixes and also the best management practices
19 that reduced our impacts on the environment for carrying
20 out those settlement items. And I should mention as part
21 of the settlement agreement, we also have the habitat
22 expansion agreement which is included as part of the
23 proposed project and it is referenced in the settlement
24 agreement itself.

25 We also included the FERC Staff Alternative in

1 the Draft EIS so we evaluated the effects against our
2 proposed project and the no project. So that's all
3 included in Chapter 5 of the document. And also if you
4 want to see how these are defined specifically, you can
5 go to Chapter 3 of the document where we define
6 no-project, proposed project and our FERC Staff
7 Alternative.

8 A little more detail about our proposed project.
9 As I said it's a settlement agreement. The settlement
10 agreement included several different items. One is the
11 Appendix A items and those are the FERC jurisdictional
12 items. I'm going to go over those in more detail in a
13 moment.

14 Appendix B items which are closely associated
15 with Appendix A but were not strictly within FERC's
16 jurisdiction but we are stilling committing to it as part
17 of the CEQA process to carry those outs. The ecological
18 committee, and it did detail the State Water Resources
19 Control Board Collaborative Process which allowed them to
20 participate in the settlement discussions without being
21 predecisional on their 401 certification process.

22 It also included 4(e) conditions from the forest
23 service, the Habitat Expansion Program and best
24 management practices to minimize effects on the
25 environment from carrying out these activities.

1 also ongoing operations and maintenance of the Oroville
2 facilities. That defines our proposed project. That's
3 what we carried into the impact analysis.

4 A little bit of detail. When we got into the
5 impact analysis, we needed to look at the individual
6 provisions within the settlement agreement and the
7 settlement agreement was negotiated in several major
8 pieces. One of which were the environmental provisions.
9 And I know those of you who are seated in the back really
10 can't see this, but this is all detailed in the document.
11 We will put this up so you can look at it during the
12 break or at your leisure today. But our environmental
13 provisions start up at Lake Oroville itself with
14 fisheries, habitat improvements, projects and also a
15 commitment to continue the cold water fisheries stocking
16 program. We've also committed to potential water
17 temperature improvements. We are going to look at ways
18 of accessing the cold water pool in Lake Oroville at a
19 deeper elevation than we currently can access it so that
20 we can bring that water into the Lower Feather River to
21 enhance fisheries production in the Lower Feather River.
22 Of course, carrying out any type of physical action like
23 that will take several years so as an interim measure we
24 have committed to enhance flows and lower water
25 temperatures in the Low Flow Channel that will hopefully

1 improve in the interim fisheries spawning, weiring and
2 incubation. And those particular measures are all
3 spelled out in the settlement agreement which is included
4 in the environmental document.

5 Another item that we felt collectively was very
6 important is that we provide new management techniques
7 for the Feather River Fish Hatchery. This is a
8 commitment to prepare plans including a genetic plan so
9 that we can manage the spring-run, fall-run and Steelhead
10 production into the future more in keeping with how
11 hatcheries in California will be managed in the next many
12 years.

13 We have also committed to improve temperature
14 controls for the Feather River Hatchery as well.

15 Other items include segregation weirs so that we
16 can allow our early returning fish which are our
17 spring-run Salmon, a federally listed species, to have
18 access to the upper and lower Feather River and then we
19 would block them off so that they had that habitat for
20 spawning and then the fall-run would spawn below that
21 spot so we could ensure that they weren't interbreeding
22 and which delutes the gene pool for the spring-run and it
23 causes them to be more like the fall-run. So we are
24 trying to keep the spring-run characteristics for those
25 fish.

1 we have a number of terrestrial habitat
2 improvements that deal with many listed species and
3 wildlife habitat and those would be at the wildlife --
4 the Oroville Wildlife area, the Afterbay and then in the
5 Afterbay area. There's a variety of those dealing with
6 waterfowl and wood duck boxes, that type of thing. Food
7 sources for the waterfowl as well.

8 Another major settlement area was dealing with
9 recreational facilities, and this map is really
10 un-readable from your vantage point, but basically the
11 recreation management plan includes future activities,
12 future projects to enhance recreation in all geographic
13 areas including around Lake Oroville, in the Diversion
14 Pool, the Forebay and Afterbay and in the Oroville
15 wildlife area. So there's a number of recreational
16 enhancements that have been agreed to as part of the
17 settlement.

18 So along with all of those activities we also
19 have been working on cultural resources. We have a
20 historic properties management plan in the works and also
21 land use and aesthetics issues such as screening of
22 materials, storage areas so that aesthetically the
23 Oroville facilities will match the environment better.

24 Now, again, these are what defined the
25 proposed -- the proposed project. The document itself

1 does not make changes to these. what it does is it
2 evaluates the effect of carrying out all those measures
3 on the environment and are there adverse impacts on the
4 environment for carrying out these provisions. So we
5 carried those into the impact analysis and we defined the
6 impacts in these ways: Either that resource category,
7 those activities would have no impact -- no adverse
8 impact on the environment; beneficial impact; less than
9 significant impact or a less than significant with
10 mitigation. So our goal was to either have no impact,
11 beneficial or all the way to less than significant with
12 mitigation. And so each section has detailed mitigation
13 measures included with it where those were required to
14 bring the activities into this range. Basically because
15 these are all environmental enhancements and recreational
16 improvements, per se, the project has a beneficial effect
17 but obviously in constructing recreation sites, putting
18 weirs in the river, you are going to have adverse impacts
19 on resources in terms of short-term construction. So we
20 did provide -- I am going to use an example here. One of
21 our listed species in this area is the Elderberry
22 Longhorn Beetle and we have mapped the habitat which is
23 in blue, and if you look at the habitat it is largely
24 along the Lower Feather River and obviously that's where
25 we are going to be doing a lot of the construction for

1 our fisheries habitat improvements. So we did see that
2 we were going to be having adverse impacts on that list
3 of species and its habitat. So then it was incumbent
4 upon us to work with the Fish and Wildlife Services to
5 devise mitigation measures and immunization measures and
6 compensation measures to reduce those impacts to less
7 than significant. So we did that for each resource
8 category and that's all detailed in the document.

9 Other areas of impact that are a little less
10 obvious is noise from heavy equipment during the
11 construction phases and also air quality emissions from
12 the construction equipment. So we have the management
13 practices to reduce those to less than significant levels
14 in the document.

15 Okay. That sort of wraps up my summary of the
16 document. Again, where are we in the process? FERC did
17 release their Final EIS. We are circulating the Draft
18 EIR currently. We are going to be responding to the
19 comments at the end of the comment period and preparing a
20 Final EIR and DWR will then certify a Final EIR. At that
21 time DWR will not be making a project decision per se
22 because it isn't really right for a decision by DWR, but
23 we will hand it off to the State Water Resources Control
24 Board and then they will go through the 401 certification
25 process, which they need to do under federal law for FERC

1 before FERC can issue the license. So once the Water
2 Board is done with the 401 certification, gives it to
3 FERC, FERC will then incorporate all terms and conditions
4 of the certification, make it their final decision on the
5 license when it's ready for the commission's decision.
6 And, of course, we don't have any control over that time
7 frame, but we are certainly hoping that they will move
8 along with due haste to get us our license as soon as the
9 401 certification process is completed.

10 Once we have the license from FERC, then DWR
11 will be making a decision based upon this EIR process to
12 accept the license and carry out the license, implement
13 the license, go over the license terms. So we will be
14 making our decision. We will also use this for
15 compliance with the California Endangered Species Act.
16 We will be asking Fish and Game for its concurrence. I
17 understand a permit for the State-listed species, and we
18 also will use the document for some project
19 implementation. We do spend quite a bit of time in the
20 document talking about areas where we know enough about
21 the activities in the settlement agreement that we can
22 identify impacts at the project-specific level and then
23 we would be able to carry those out without further
24 environmental review. There are very few of those. Most
25 of the areas in the settlement agreement are plans and

1 programs that are large and complex and will require
2 further environmental analysis at the more
3 activity-specific level. But there will be some -- we
4 did want to point out that there will be some project
5 implementation based upon this environmental document
6 after the license issuance.

7 And I think I'm going to end there and turn this
8 back over to Rick.

9 MR. RAMIREZ: Okay. Thank you, Barbara.

10 In a nutshell Barbara has described six years of
11 work and discussion and technical studies with many of
12 the folks in the audience and agencies that I don't see
13 represented here. And much of this material is on the
14 Department Oroville Relicensing Web site. And as I said
15 earlier it's also summarized in many of the handouts that
16 you saw as you first walked in the door. So I think that
17 should hopefully give folks an overview of our process.
18 And as I say, the document is available in several
19 different forms for anyone that would like to read it in
20 depth. The guide to the DEIR is out there as well that
21 may help point you to specific areas that you are
22 interested in. But as I say, the purpose of this meeting
23 now is to start collecting public comments of whatever
24 nature you believe will help us turn this work into a
25 final document that is then part of the record.

1 As Barbara mentioned the State Water Resources
2 Control Board will be issuing a water quality
3 certification and attached to that may be terms and
4 conditions as a result of the CEQA analysis. So your
5 comments will help shape that part of the process. Once
6 FERC receives that water quality certification from the
7 Control Board then FERC will be in a position to issue a
8 final license, from the Department's perspective,
9 hopefully a license that reflects the settlement
10 agreement that we have all worked on.

11 So with that let me go ahead and open up the
12 public comment portion. I do have a number of cards,
13 about 20 cards, from folks that have filled out a speaker
14 card. I'm going to assume that will give us perhaps four
15 to five minutes per speaker. I've got a fancy little
16 system here that tells me when that time is up, but the
17 reality is I think we can self-police ourselves. I don't
18 plan on yanking anybody with a hook. If you've got
19 something to say, certainly we want to hear it.

20 And as another reminder the written comments, of
21 course, aren't due until August 20th. So there are
22 several opportunities for you to make your views known.

23 Now, I'm going to go ahead and start calling
24 speakers up. What I would like to do is call each
25 speaker. We've got a podium here set up here for you.